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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,310	09/29/2000	Ling Thio	PA1208US	1507

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EXAMINER

JONES, PRENELL P

ART UNIT

PAPER NUMBER

2667

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/675,310

Applicant(s)

THIO, LING

Examiner

Prenell P Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant is claiming with regards to independent claims 1, 8, 15 and 16, "fast response operation" which is not clearly defined in the specification. On page 8, line 21 of the specification, Applicant describes a "fast response operation" as "operations involving client request which may be processed **relatively quickly**." The phrase "fast response operation" is indefinite/vague with respect to Applicant's definition. Examiner questions what is considered to be relatively quickly? In addition, regarding claim 2, Applicant is claiming in line 2, "**fast response operator analyzer**," which is not described in the specification. So, it is unclear to Examiner as to what Applicant is claiming.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

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4. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant is claiming with regards to independent claims 1, 8, 15 and 16, "**fast response operation**" which is not clearly defined in the specification. On page 8, line 21 of the specification, Applicant describes a "**fast response operation**" as "operations involving client request which may be processed **relatively quickly**." The phrase "fast response operation" is indefinite/vague with respect to Applicant's definition. Examiner questions what is considered to be "**relatively quickly**"?

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3-5, 8, 11, 12, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaFollette et al in view Case et al.

Regarding claims 1, 8, 15 and 16, LaFollette discloses (Abstract, Fig. 2, 6, col. 3, line 37 thru col. 5, line 61) a communication network whereby optimizing the network performance is a concern, and wherein system performance is monitored and (col. 2, line 15-28, col. 4, line 31-67) a computer system with appropriate software/hardware is used for monitoring system performance, whereby a processor (analysis engine) executes software instructions, processor performs analysis/measuring functionality, processor coupled to ping module, transmitting ping

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packet and timing the return of the ping packet, measuring error and response time of ping, round-trip delay time is calculated based on a ping (fast-response operation) response time, ping is measured by link hardware after hardware acknowledges a ping presence, and (col. 2, line 15-27) diagnostic node detects ping response. LaFollette is silent on monitor and analysis engine coupled to a processor. However, in analogous art, Case (Abstract, Fig. 1, col. 4, line 1, thru col. 6, line 67) discloses measuring round-trip delay wherein there is communication between client machine and server machine, computer workstation consisting of display/monitor, processor, software in association with processor (analysis engine), measuring latency and plurality of predetermined URLs (parameters/definitions) associated with response. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to be motivated to implement a monitor/display associated with a computer system as taught by Case with the teachings of LaFollette for the purpose of further monitoring system performance with the assistance of visual representation of network performance.

Regarding claims 3, 4 and 5, as indicated above, Case (Abstract, Fig. 1, col. 4, line 1, thru col. 6, line 67) discloses measuring round-trip delay wherein there is communication between client machine and server machine, computer workstation consisting of display/monitor, processor, software in association with processor (analysis engine), measuring latency, plurality of predetermined URLs (parameters) associated with response. Case further discloses (col. 7, line 17 thru col. 8, line 67) URLs (parameters/definitions) are specified by a user of a client device whereby the user selects from a list of predetermined URLs', whereby URLs are automatically generated by software running on client machine and response time processed at server.

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Regarding claim 11 and 12, as indicated above, LaFollette discloses (Abstract, Fig. 2, 6, col. 3, line 37 thru col. 5, line 61) a communication network whereby optimizing the network performance is a concern, and wherein system performance is monitored and (col. 2, line 15-28, col. 4, line 31-67) a computer system with appropriate software/hardware is used for monitoring system performance, whereby a processor (analysis engine) executes software instructions, processor performs analysis/measuring functionality, processor coupled to ping module, transmitting ping packet and timing the return of the ping packet, measuring error and response time of ping, round-trip delay time is calculated based on a ping (fast-response operation) response time, ping is measured by link hardware after hardware acknowledges a ping presence, and (col. 2, line 15-27) diagnostic node detects ping response, and calculating the ping between nodes associated with measured ping traveling time between nodes.

7. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaFollette et al in view of that which is known in the art as applied to claims 1, 3-5, 8, 11, 12, 15 and 16 above, and further in view of Borella.

Regarding claims 7 and 14, as indicated above, LaFollette discloses (Abstract, Fig. 2, 6, col. 3, line 37 thru col. 5, line 61) a communication network whereby optimizing the network performance is a concern, and wherein system performance is monitored and (col. 2, line 15-28, col. 4, line 31-67) a computer system with appropriate software/hardware is used for monitoring system performance, whereby a processor (analysis engine) executes software instructions, processor performs analysis/measuring functionality, processor coupled to ping module, transmitting ping packet and timing the return of the ping packet, measuring error and response time of ping, round-trip delay time is calculated based on a ping (fast-response operation)

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response time, ping is measured by link hardware after hardware acknowledges a ping presence, and (col. 2, line 15-27) diagnostic node detects ping response. LaFollette is silent on monitor and analysis engine coupled to a processor. However, in analogous art, Case (Abstract, Fig. 1, col. 4, line 1, thru col. 6, line 67) discloses measuring round-trip delay wherein there is communication between client machine and server machine, computer workstation consisting of display/monitor, processor, software in association with processor (analysis engine), measuring latency and plurality of predetermined URLs (parameters/definitions) associated with response. Both LaFollette and Case are silent on displaying graphical representations of round trip time. In analogous art, Borella discloses (Abstract, Figs. 1-5, col. 3, line 50 thru col. 7, line 59) monitoring network performance such as latency/round trip delay with the association of ping packets, wherein the ping packets are associated with return timestamps that are used in calculating latency (round-trip) and utilization of user computers/network devices which consist of display monitors that accommodate graphical data images. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to be motivated to implement a monitor/display associated with a computer system as taught by Borella with the combined teachings of LaFollette and Case for the purpose of further managing/monitoring performance of a system in a more detailed aspect, whereby congestion associated with latency in a communication system is a real concern.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prenell P Jones whose telephone number is 703-305-0630. The examiner can normally be reached on 9:00-5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 703-305-4378. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Prenell Jones 

March 15, 2004


CHI PHAM
SUPERVISORY PATENT EXAMINER
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3/16/04